

Schedule B

In support of its request, the Applicants rely on the following material facts:

Introduction

Unifor and its Local 222 (the Union) acted to have the applicants lose their jobs, and have them replaced by members of another Unit of Local 222. In acting to achieve this goal, the Union completely disregarded the interests of the applicants, did not provide them with representation, excluded them and their Unit representatives from negotiations that affected their jobs, conducted negotiations in secret, and prevented the Applicants and their Unit representatives from having any knowledge of agreements that were being negotiated that affected the Applicants. The Applicants and their representatives were repeatedly given false information by the Union. The Applicants were given assurances by the Union that their interests would be protected, and all those assurances were broken.

1. Unifor Local 222 is an amalgamated Local union which comprises over 30 bargaining units that have collective agreements with different employers. The President of Local 222 is Jeff Gray. Local 222 is a Local union which is a component part of Unifor, a national Canadian union.
2. The PWT Unit of Local 222 represents operators employed by PWTransit (PWT) who provide transit service in the municipality of Whitby under contract to Durham Region Transit (DRT). The union Chairperson of the PWT Unit is Tim Thompson. There is a collective agreement between Unifor Local 222 and PWT.
3. The DRT Unit of Local 222 represents operators, mechanics and other employees of the Durham Region Transit who provide transit services in the Durham Region municipalities of Ajax, Brock, Clarington, Oshawa, Pickering, Scugog, and Uxbridge. The union Chairperson of the DRT Unit is Ian Sinnott. There is a collective agreement between Unifor Local 222 and DRT.
4. Sam Snyders is a National Representative of Unifor. He is assigned to both the DRT and PWT bargaining Units.
5. In August of 2022 it became known that DRT was going to end the contract to PWT and contract-in the provision of transit services in Whitby. A Memorandum of Agreement (MOA) was later negotiated between Local 222, DRT, and PWT concerning the terms of the contracting in of the work. [Exhibit 1] Even though the provision of transit services in Whitby will continue using the same routes and buses, the current workers will lose their employment and be replaced by workers

from the DRT Unit. The terms of the MOA have the consequence that the workers at PWT will lose their jobs, and not be guaranteed employment with DRT.

6. In the negotiation of the MOA the members of the PWT Unit of Unifor Local 222 were denied fair representation by Unifor and its Local 222 and subjected to treatment that violated the union's obligation to not act in a manner that is arbitrary, discriminatory, or in bad faith.
7. The MOA that was negotiated eliminates the employment of the operators in the PWT Unit. The jobs currently performed by members of the PWT Unit will be given to members of the DRT Unit. The MOA provides no guarantee to any PWT operator that they will be hired by DRT, and those that are hired by DRT will get no recognition of their seniority with PWT.
8. Unifor and its Local 222 deliberately negotiated the agreement that eliminates the jobs of Local 222 members employed by PWT without the knowledge or participation of the members or elected representatives of the PWT Unit.
9. The PWT members and their elected representatives were unreasonably and unfairly excluded from the negotiation of the MOA. The members and representatives of the PWT Unit were not only excluded from the negotiating sessions, they were intentionally kept in the dark about when negotiations were taking place, and what terms were being discussed. Even after the MOA was agreed to and signed, the terms of the MOA were kept from the members and representatives of the PWT Unit as long as possible.
10. The exclusion of the PWT members and their representatives was done in a manner that showed animus and bad faith.
11. The PWT members were treated differently than members of the DRT Unit by the union, and have been harmed by that discriminatory treatment. The representatives of Local 222 involved in the negotiation of the MOA acted to protect the interests of members of the DRT Unit at the expense of the interests of the members of the PWT Unit. The representatives of Local 222 acted against the interests of the PWT Unit members because they believed it would benefit those representatives in maintaining their privileged positions in the Local union.
12. As a result of the unreasonable, discriminatory and bad faith representation by the Union, the PWT workers will lose their employment on January 1, 2024 or before. Even if any PWT employees are later hired by DRT, they will lose their accrued service and seniority and will suffer reduction or elimination of rights and conditions they currently are entitled to, based on their service and seniority.

13. DRT has already rejected employment applications from a number of PWT operators.

Chronology of Events

14. PWT has provided transit services in the former municipality of Whitby under contract from the Durham Regional Transit authority (DRT) since January 1, 2017. Under this contract PWT has provided drivers who are paid by PWT, to operate routes designated by DRT.
15. As of the date that insourcing of Whitby Service by DRT was announced there were approximately 36 full-time and 10 part-time operators who were members of the PWT unit.
16. DRT has maintained substantial control over the work performed by PWT employees. DRT owns the buses, which have the DRT logo on them. DRT also is responsible for the CVOR (commercial vehicle operator's registration), pays for fuel and insurance, and is responsible for major engine and transmission replacement on buses. DRT sets the routes for service, and PWT operators are required to follow DRT policies and procedures. Operators of the Whitby routes wear uniforms with the DRT logo on them. Customer complaints and other incidents are first reported to DRT, and DRT then submits incident reports to PWT with an expectation that they will receive a report about the incident, and that operators will be disciplined if warranted.
17. Many of the employees in the PWT unit have worked providing transit services in Whitby for years prior to PWT getting the service contract, for a succession of employers including Charterways, Trentway-Wagar, and Coach. In every previous transition the union (CAW at that time) negotiated that employees maintained their service and seniority and the rights and benefits that accrued from their service and seniority. As a result, current PWT employees have seniority of up to 34 years, and approximately 11 have seniority of 10 years or more.
18. On Sunday, August 14, 2022 Unifor Local 222 conducted a ratification vote for a proposed new collective agreement between DRT and the Unifor members of the DRT unit. [Exhibit 2] The Negotiated agreement between DRT and Unifor Local 222 includes a Letter of Understanding (LOU) which provides that "DRT shall contract-in all scheduled services into the bargaining unit upon the expiration of the third-party contract." The "third-party contract" is the service currently being provided by the employees of PWT, but there is no provision here or elsewhere in the DRT-Unifor contract and LOUs to protect the employment, seniority, service and other rights of the existing PWT employees who are members of Unifor Local 222.

19. On Monday, August 15, 2022 operators from the PWT Unit of Local 222 started hearing from operators of the DRT Unit that they had been told at their ratification meeting that at the end of 2023 DRT would be taking over the provision of transit services in Whitby from PWT. Neither the operators employed by PWT nor their elected representatives had any prior notice or knowledge that this would happen.
20. Tim Thompson, Union Chairperson of the PWT unit was on vacation, but started receiving calls from his members informing him of what they were hearing. From that day on Tim Thompson attempted to find out what was going on, and to act to protect the jobs and rights of the PWT operators he represented. The Local 222 President and DRT Unit Chairperson acted to prevent Tim Thompson from being involved in negotiations regarding the in-sourcing, denied him any opportunity to represent his members, and prevented him and his members from knowing when negotiations took place or the content of proposals being discussed. This exclusion continued from August 15, 2022 until after the MOA was negotiated and signed.
21. At approximately 10:30 to 11:00 am on August 15, 2022 Tim Thompson phoned Jeff Gray, President of Unifor Local 222, to ask if it was true that DRT would be taking over transit services in Whitby. Jeff Gray replied that it was true, and told Tim Thompson, "We're going to have to have a discussion once the Region reaches out to sit down and have talks on how this will play out."
22. The same day, August 15, 2022, Tim Thompson phoned Unifor National Representative Sam Snyders, to discuss the situation, and Sam Snyders provided information about what happened during the DRT negotiations.
23. Sam Snyders had requested during the negotiations with DRT that the union attempt to negotiate provisions in the DRT-Unifor contract to protect the PWT operators after the transition. The response to this request from Ian Sinnott, the Chairperson of the DRT Unit, was, "The PWT drivers can go F___ themselves; I have no interest in putting a provision in the collective agreement to protect them."
24. Sam Snyders then turned to Jeff Gray and said, "You represent both units – what is your position?" Jeff Gray stated that he supported Ian Sinnott's position.
25. PWT General Manager Dave Wilson emailed PWT employees on August 18, 2022 to notify them that DRT and Unifor negotiations had been completed and that "when the negotiations are finalized" they would be provided with further information. This message was posted as a Memo. [Exhibit 3] In a follow-up message on September 15, 2022 Dave Wilson informed PWT employees that "we have confirmation that the contract between PWT and Durham Region for Conventional Transit service

operation will conclude on December 31st, 2023.” This message was posted as a Memo. [Exhibit 4]

26. On November 24, 2022 Tim Thompson received a voicemail message from Jeff Gray stating, “Tim, it’s Jeff Gray. DRT has reached out to me. They want to have a conversation about the possible transition between PWT operators and DRT. This meeting is to take place before Christmas.” Tim Thompson later played this voicemail message for Gord Vickers and Susan Inman. He also played the voicemail for Colin James and Sam Snyders at a meeting on May 21, 2023.
27. Tim Thompson called Jeff Gray the next day, November 25. Jeff Gray told Tim Thompson “We will be sitting down with the Region to discuss the transition and they want to have the meeting before Christmas.” Tim Thompson replied “Okay, sounds good. Let me know when it will take place.” Jeff Gray stated “I will.”
28. Tim Thompson heard nothing more in November and December. In January, 2023 Tim Thompson again called Jeff Gray and left a message asking if he had heard anything more from DRT.
29. Jeff Gray returned the call the same day and said he had not heard from DRT, that they were quite busy, and that they “put us in the agenda for the new year.”
30. Tim Thompson was becoming increasingly concerned about the future employment and conditions for the workers he represented.
31. On February 1, 2023 Tim Thompson emailed Jeff Gray and said that they need answers, and that failing that they would need to start a campaign to secure the jobs and rights of the PWT workers. [Exhibit 5]
32. Jeff Gray responded to Tim Thompson’s email by calling Tim Thompson and saying he was still waiting to hear from the DRT legal.
33. On or shortly after February 27, 2023 Tim Thompson was told by the PWT General Manager Dave Wilson that there had been a meeting on February 27 that included Brandi Tracksell (PWT labour relations), James Vine (PWT Vice-president), Jeff Gray, Ian Sinnott and his bargaining committee members, Kelly McDermott (DRT legal) and others. Dave Wilson had not been present, but had been informed about the meeting by Brandi Tracksell. Dave Wilson told Tim Thompson that the PWT representative had asked why Tim Thompson was not present. The answer from a Unifor representative was that Tim was not involved because this was a matter between PWT and DRT. Sam Snyders also was not present at this meeting.

34. When Tim Thompson learned about the February 27 meeting, he phoned Brandi Tracksell. Brandi Tracksell told Tim Thompson that she could not discuss what happened at the meeting because there was a non-disclosure agreement. She suggested that Tim contact the Unifor National Rep, Sam Snyders.
35. Tim Thompson phoned National Rep Sam Snyders and asked him "What's going on?" Sam Snyders said he had "No idea." Sam Snyders then contacted Jeff Gray and reported back to Tim Thompson that he had been told by Jeff Gray that there was indeed a non-disclosure agreement and that Jeff Gray told him (Sam Snyders) he could not talk about it.
36. Sam Snyders then said he wanted to talk to Tim Thompson "off the record", and then advised Tim to contact Bruce Snow and/or Josh Coles of the Unifor national staff. Bruce Snow is an assistant to the Unifor National Officers and Josh Coles is a senior Unifor staff representative.
37. On March 3, 2023 Tim Thompson emailed Lana Payne, Unifor National President. [Exhibit 6] In this email Tim Thompson noted that the Durham Region Transit Authority had served notice to PWTransit that they were going to be taking over the provision of transit services in Whitby by the end of 2023 and that he was concerned that the members he represented could lose their jobs. Tim Thompson notified Lana Payne that the National Representative, Sam Snyders, had expressed "disappointment" that Local 222 President Jeff Gray had failed to negotiate protection for the PWT employees, who are members of Local 222. Tim Thompson also informed Lana Payne in this email that Jeff Gray was excluding him from meetings, hiding information from him, and possibly engaging in side deals. Tim Thompson received confirmation of receipt of this email from Brenda in Lana Payne's office. [Exhibit 7]
38. On March 4, 2023 Tim Thompson left a voice message for Bruce Snow at his office stating that "There was a meeting between DRT, my Local President, and PWT, and I was excluded." Tim's message included that he had been advised that there was a non-disclosure agreement that covered what happened at the meeting. Tim said that he had no idea what was discussed at the meeting, but that he was very concerned that his membership was not being represented fairly, and that they could suffer harm as a result.
39. A few days later, and evidently in response to Tim Thompson's message for Bruce Snow, Sam Snyders called Tim and told him there would be a Zoom meeting to discuss the situation on March 14, 2023.

40. On March 11, Tim Thompson received an email from Sam Snyders stating that the Zoom meeting scheduled for March 14 was “cancelled at this point.” The email was addressed to Bruce Snow, Josh Coles, Jeff Gray, Tim Thompson, and cc to Sam Snyders. [Exhibit 7] The Zoom meeting was never rescheduled.
41. Tim Thompson made concerted efforts over the next few weeks to find out what was going to happen to his members, and whether or not their jobs would be protected. In several phone conversations with Jeff Gray he was told that discussions were going on. Jeff Gray at different times said, “We’re getting there,” “We’re sending proposals back and forth,” “We’re trying to get to an agreement.” Jeff Gray promised Tim Thompson that there would be a meeting with the parties that would include Tim. This promise was never kept.
42. On March 19, 2023 the PWT unit ratified a collective agreement with PWT with a term of October 22, 2022 to January 31, 2024. [Exhibit 8] Jeff Gray had been requested to take part in the negotiation of this agreement by Sam Snyders and Tim Thompson but he never took part in any of the meetings. Jeff Gray did not sign the Unifor Local 222 -PWT collective agreement, although it is an understanding that the Local President is part of the negotiation committee of all units, takes part in all unit negotiations, and signs all unit agreements, and this has been the practice in Local 222 for decades.
43. A day or two prior to May 21, 2023 Sam Snyder invited Tim Thompson to attend a meeting at his house. The meeting occurred on May 21, 2023. Present were Sam Snyder, Colin James (a former President of Local 222), and Tim Thompson.
44. At the May 21 meeting Sam Snyder showed Tim Thompson a document with the title of “Memorandum of Agreement” or something similar that described terms of an agreement regarding DRT’s assumption of Whitby service. Tim noted that the document was signed by Bill Holmes, General Manager, Durham Region Transit; James Vine, Vice President, Transit Pacific Western Transportation; Jeff Gray, President, Unifor Local 222; and Ian Sinnott, Chairperson, Unifor Local 222. Tim Thompson saw that the document indicated it had been signed on February 27, 2023. That is the date of the meeting that Tim Thompson had been excluded from. Sam Snyders asked Tim Thompson to keep this information in confidence. Tim Thompson was not allowed to retain a copy of the document.
45. At the May 21, 2023 meeting Colin James stated that the position of Local 222 had always been to get the members of the PWT unit brought into the DRT unit with their service and seniority protected, so that all would be working for one employer.

46. At the May 21, 2023 meeting Sam Snyders repeated to Tim Thompson and Colin James that at the time of the DRT negotiations that DRT union Chair Ian Sinnott had said about the PWT members: "The PWT drivers can go F___ themselves; I have no interest in putting a provision in the collective agreement to protect them," and that Jeff Gray had said he supported the position of Ian Sinnott. Sam Snyders said that when he asked Jeff Gray why he would take that position and not try to negotiate protection for the PWT members, Jeff Gray responded "It's all about votes," which was taken to mean that his primary consideration was what would best ensure him votes in future elections.
47. The discussion between Sam Snyders, Colin James, and Tim Thompson on May 21, 2023 continued for about 4 hours. Sam Snyders' advice to Tim at the meeting was that Tim should try to get the National Union involved. Sam Snyders told Tim that until the Memorandum of Agreement was made public, "there is not much you can do."
48. On May 30, 2023 Colin James provided Tim Thompson with an email reaffirming that his goal as Local 222 President was to have the PWT members and DRT members of Local 222 "under one umbrella." [Exhibit 9]
49. On or about May 31, 2023, when Tim Thompson had still not learned anything official from Jeff Gray or Unifor, he phoned a retired Unifor staff representative that he knew, Gary Beck. Gary Beck had been the Director of Constitutional Matters before his retirement. Tim told him about the situation and his concern that the jobs and rights of his members were in jeopardy. Gary Beck advised Tim to email Unifor President Lana Payne again, using the subject line "High Importance – PWTransit Closure."
50. On June 1, 2023 there was a scheduled General Membership Meeting for Unifor Local 222. About 15 members of the PWT unit attended the meeting hoping to get some answers about their situation from Local 222 President Jeff Gray. At this time, no members of the PWT unit knew that a Memorandum of Agreement had been negotiated, or what it said, because Tim Thompson had nothing in writing about the negotiated arrangements and had been asked by Sam Snyders to keep that information confidential.
51. There was no quorum at the June 1 meeting, so President Jeff Gray declared that no meeting would be held. Tim Thompson and other PWT members demanded that Jeff Gray tell them what was happening with their jobs. Jeff Gray was disrespectful and dismissive towards Tim Thompson, accusing him of "showboating". Jeff Gray then refused to talk to the PWT members and left the room. Eventually Jeff Gray returned to the room and said he would talk to the PWT members but that everyone

else would have to leave. Unifor National Representative Shayne Fields was in the meeting room while this took place, and he remained when others who were not PWT members were asked to leave.

52. In the meeting with PWT members Jeff Gray refused to provide details of the agreement that had been negotiated with DRT because he said there was a “non-disclosure agreement”. Jeff Gray promised the PWT members that “you’re all going to get jobs” with DRT. Jeff Gray was asked why Tim Thompson had not been allowed to take part in the negotiation of the agreement. Gray said that he had felt that Tim Thompson did not need to be there, and that it had been his (Gray’s) decision to not have Tim Thompson present.
53. On June 2, 2023 Tim Thompson resent his email to Lana Payne, this time marked “High Importance.” [Exhibit 10]
54. On June 2, 2023, Local 222 arranged for the three PWT Unit reps (Tim Thompson, Susan Inman, and Christopher Hardy) to have a four hour leave of absence to meet with Jeff Gray at the Union Hall on June 12, 2023 to discuss the details of the agreement between Local 222, DRT, and PWT. [Exhibit 11]
55. On or about June 5, 2023 Sam Snyder called Tim Thompson and said that he had “heard there was a big hullabaloo at the Union Hall”. Sam Snyder told Tim Thompson that Bruce Snow, an Assistant to the Unifor officers, had heard about it from Shayne Fields and wanted to know what happened. Tim Thompson told Sam Snyder about what had happened at the Union Hall on June 1, 2023.
56. On June 6, 2023, Jeff Gray cancelled the leaves for Tim Thompson, Susan Inman, and Christopher Hardy for June 12, without prior notice to them. [Exhibits 12, 13]
57. On June 6, 2023 PWT employees received an email from Brandi Tracksell that informed them “we have reached an agreement with Durham Region Transit and Unifor Local 222 on a transition plan for employees who would like to work for the Region upon conclusion of PW Transit’s contract which ends on December 31st, 2023.” The message indicated that “the Parties (PWT, the Region and Unifor) will provide opportunities for you to learn more about what the agreement entails and options available for employees. PW Transit is committed to working with each and every employee to assist in a smooth transition and as such, Emily, Duke and myself will be available to meet with you on June 13th between 1:30pm and 3:30pm and again on June 14th between 10am and 12pm.” [Exhibit 14]
58. On June 6, 2023 Tim Thompson emailed Bruce Snow in order to have a discussion with him about what had happened at the Union Hall, and about the issues facing

the PWT operators. After a series of emails on June 6 and 7, a phone conversation between Tim Thompson and Bruce Snow was arranged for June 8, 2023. [Exhibit 15]

59. On June 8, 2023 Tim Thompson had a phone conversation with Bruce Snow in which he told Bruce Snow about what had happened at the Union Hall, and what had led to the conflicts between Jeff Gray and Tim Thompson. Tim Thompson reminded Bruce Snow that they had been scheduled to have a Zoom discussion about the PWT issues on March 14, but that it had been cancelled and was never rescheduled. Tim felt that Bruce Snow was non-committal, but Bruce told Tim that he was taking notes. Tim Thompson said he was not very comfortable with the role played by Shayne Fields, because he knew that Shayne Fields was part of the political caucus of the Local 222 leadership. Bruce Snow responded that Shayne Fields was supposed to be impartial. Tim Thompson explained his frustration about getting information from Jeff Gray, and getting support to protect the interests of the PWT workers. Bruce Snow told Tim at the end of the conversation, "Leave it with me."
60. On June 9, 2023 Tim Thompson emailed all members of Durham Regional Council asking them not to approve any agreement that did not protect the employment rights of the PWT employees. [Exhibit 16]
61. On June 12, 2023 Tim Thompson and his bargaining committee met with PWT management and were given three documents. One document is titled "Internal Bulletin Memorandum of Agreement" (the Bulletin). This document is one page long. It mentions that a Memorandum of Agreement (MOA) had been reached between DRT, PWT, and Unifor Local 222. It describes only some of the details of the MOA. At the bottom of this document it has "Originally signed by:" and lists the same four names that Tim Thompson had seen at the May 21 meeting. This document is called "Bulletin #97" and notes "Posted: June 12, 2023". This Bulletin is consistent with the document that had been shown to Tim Thompson at the May 21 meeting by Sam Snyders. [Exhibit 17]
62. The second document is titled "Attachment: Highlights of Memorandum of Agreement between Durham Region Transit (DRT), Pacific Western Transportation (PWT), and Unifor Local 222" (the Attachment). This highlight document has more details than the one-page bulletin. The Attachment document is two pages long in question and answer format. [Exhibit 18]
63. The third document is titled "Durham Region Transit Commission Conventional Operator – Expression of Interest for Current Employees of PWT" (the EOI). [Exhibit 19]

64. The Internal Bulletin was posted, and PWT employees were met by Brandi Tracksell as they arrived for work and were told the terms of the Memorandum, and advised that they needed to fill out an application to DRT if they wanted to be considered for employment by DRT. They were provided with copies of the Attachment document and the EOI document.
65. The Attachment document and the EOI document contain numerous provisions that are disadvantageous for current PWT employees, including:
 - a) provisions that could disqualify them from being hired at all by DRT,
 - b) provisions that make it likely they would be offered part-time work at best,
 - c) provisions that allow DRT to delay the start date of any PWT employees they decide to hire for up to 6 months or possibly more,
 - d) provisions that remove the seniority and service of existing PWT employees and require them to start as new employees (except for some initial recognition of their service for vacation purposes – but only their DRT seniority would be recognized to move along the vacation entitlement grid).

It is clear in these documents that employment will be offered to PWT employees entirely at the discretion of DRT, and no PWT employee is guaranteed employment. All of these restrictions, limitations and disadvantageous provisions are completely at odds with all previous transitions between companies contracted by DRT to provide Whitby transportation services. In all previous transitions the employees' full seniority and service was protected and recognized.

Items in the Attachment, Bulletin, and EOI documents that are disadvantageous or harmful to the PWT employees

66. **Hiring by DRT:**
 - a. The Bulletin states that the MOA “will support Pacific Western Transit employees to transition to DRT upon expiration of PWT’s service contract on December 31, 2023.” The Bulletin states that the MOA provides “eligible employees the opportunity to be hired by DRT through an Expressions of Interest (EOI) process.” The Bulletin does not define how an employee is deemed to be “eligible.
 - b. The Attachment details the many requirements that PWT employees must meet to be considered eligible for hiring by DRT. They are “eligible to enter the EOI process” only if 1) they were not previously employed and terminated by DRT, 2) they have no more than four demerit points on their driver abstract, 3) they have no active discipline of three day/shift suspension or more. Further to the last

point, DRT will review employees with lesser discipline and determine if they are still deemed eligible for employment.

- c. Even if PWT employees are deemed eligible to participate in the EOI process, they will still only be offered employment by DRT “provided they are successful through an assessment process.” The assessment process includes a resume review to determine skills requirements, an assessment for driving skills and abilities, and an interview with management.
- d. The EOI document lists even more restrictive requirements, including a Grade 12 diploma, Ontario Class G license, MoT requirements to obtain a CZ license, a clean driving abstract, experience driving heavy vehicles, good health and good eyesight, a pleasant personality and the ability to deal with the public. While some of these requirements would not be a barrier to most PWT employees, the Grade 12 diploma is particularly problematic. Some PWT employees have been driving buses for many years without a Grade 12 diploma and it would be completely unfair to deny them employment now on this basis. Some operators may have difficulty obtaining school records from many years ago from other countries, or getting documentation of equivalency for school records from other countries.
- e. All of these requirements mean that DRT will offer employment only to PWT employees at management’s sole discretion. No PWT employees are guaranteed to be offered employment of any kind. In effect, the MOA offers nothing, because PWT employees will be treated the same as any other job applicant.

67. Date of hiring by DRT:

The Attachment provides that those PWT employees who are offered employment with DRT “will commence their employment in staggered time frames, ranging from January 1, 2024 and June 30, 2024. DRT may move up or extend the time frame where operationally necessary.” This means that even PWT employees with many years of service and seniority could be left without employment for 6 months or more.

68. Part-time or Spare Board Employment:

The Attachment provides that “Employees of PWT hired by DRT through the EOI process will be new employees to DRT, without recognition of PWT seniority, and will be subject to the terms and conditions of the DRT Collective Agreement,” and thus “PWT employees hired through the EOI process will not be guaranteed full-time status of employment irrespective of their status with PWT.” PWT employees hired by DRT will be given a retroactive seniority date of June 30, 2023, but given the large number of DRT operators who will have more seniority than that (including any hired between the negotiation of the MOA and June 30, 2023) it is certain that

any former PWT employees will initially be offered only part-time or spare board jobs. The DRT-Unifor contract provides that several times per year routes are posted and employees sign up for their preferred routes/schedule in seniority order.

69. **Vacation Entitlement:**

The Bulletin states that “PWT employees hired through the EOI process will benefit by having their existing vacation allocations recognized by DRT.” However, the Attachment makes clear that this is only for the purpose of “determining their initial vacation entitlements ... Once these employees are placed on the DRT vacation grid, they will move along the grid **based on their DRT Seniority date and their PWT/Coach service date will no longer be considered,**” (emphasis added). In other words their vacation entitlement would be “red circled”. As an example, this means that a PWT employee with 8 years of service with PWT would get an initial vacation entitlement of 20 working days if hired by DRT, the same as other DRT employees with 8 years of service. However, that employee would get no increase in their vacation entitlement until they had worked for DRT for an additional 16 years. A DRT employee with 8 years seniority, on the other hand, would increase their vacation entitlement in a further 8 years.

70. On June 14, 2023, Whitby Mayor Elizabeth Roy’s scheduler reached out to Tim Thompson to arrange a meeting regarding his letter to members of the Durham Regional Council. The meeting was eventually scheduled for June 26, 2023.
[Exhibit 20]
71. Tim Thompson scheduled a meeting at the Local 222 Union Hall for his members for June 14, 2023. When Tim and his bargaining committee members showed up they found that the room was set up with Ian Sinnott, the other members of the DRT bargaining committee, and Jeff Gray at the head table. Tim Thompson asked Jeff Gray what was going on and Jeff Gray replied that he had thought it best to have Ian Sinnott explain the Memorandum of Agreement to the PWT members. Ian Sinnott made a presentation to PWT members who attended over the course of the day and distributed copies of a document that presented the highlights of the Memorandum of Agreement. When PWT employees asked if they would be guaranteed jobs with DRT, Ian Sinnott stated “If you meet the criteria, there is no reason they won’t hire you.” Tim Thompson, Susan Inman (PWT unit Committeeperson), and Chris Hardy (PWT unit Committeeperson) were very upset that the meeting they had arranged for their members had been taken over by Jeff Gray and Ian Sinnott. They felt their meeting had been “hijacked”.
72. Among other statements he made to PWT members on June 14, Ian Sinnott stated that the specialized services operations by DRT would be “changed over” to a contractor on September 1, 2023 and that as a result the DRT employees currently

performing those functions would be available to start driving routes in Whitby to release PWT operators to do DRT training. Many of the PWT operators were upset by Ian Sinnott's statement because they believed they would be negatively impacted if this happened. It would amount to taking away from PWT contracted service hours, could negatively impact their severance pay, and could jeopardize their employment with PWT through December 31, 2023.

73. On June 16, PWT management sent a message to Local 222 that claimed the statements by Ian Sinnott were not accurate, and requested that "the Union issue a formal letter retracting these statements and apologizing for any confusion and anxiety they may have created." They requested that the letter be sent as soon as possible, but no later than June 20, 2023. [Exhibit 22]
74. On June 26, 2023 Tim Thompson met with Whitby Mayor Elizabeth Roy, along with two members of the Unifor Local 222 Retired Workers Chapter Municipal Affairs Committee, Steve Conway and Gord Vickers. The issues of the PWT operators were explained to Mayor Roy. Mayor Roy stated that she did not understand why the seniority and other rights of the PWT operators were not being protected. She said she had gone through a similar situation as a union representative for nurses when Lakeridge Health was amalgamated, and that everyone's seniority was protected when that occurred. She also stated that she did not understand why Durham Region By-law 852004 did not require the protection or dovetailing of seniority, and said she would ask questions about the By-law.
75. On June 23, 2023 PWT management filed a policy grievance, noting that the Union had not responded to their previous request. The grievance asked for "Acknowledgement and notification to all PWT employees apologizing for the misinformation presented during the meeting on June 14th, 2023; compensation for any and all losses incurred by PWT for the misinformation and failure to address the misinformation; any other such relief that may be required." [Exhibit 23]
76. On June 26, 2023 Sam Snyders contacted Tim Thompson to arrange a meeting with Unifor Senior Director John Aman.
77. On July 4, 2023 there was a meeting with John Aman, Tim Thompson, Sam Snyders, and Susan Inman. Everything regarding the PWT members was reviewed. John Aman stated that "mistakes were made," and that they should be corrected. John Aman said he would investigate, including talking to Jeff Gray, and would then get back to Tim.
78. In early July, John Aman phoned Gord Vickers to respond to a letter that Gord Vickers had sent to Lana Payne on June 15, 2023 expressing concern about the

situation of the PWT operators. [Exhibit 21] Gord Vickers is a retired former Chairperson of the DRT Unit, and had told Lana Payne that the Union's policy had always been to support the job and seniority rights of all transit workers in Durham Region, and work to bring them together as employees of DRT with their existing seniority. John Aman had a 15 minute discussion with Gord Vickers about the PWT issues, and Gord reviewed the history of the union's support for always maintaining (or dovetailing) everyone's seniority when different groups were combined. John Aman told Gord Vickers that he recognized that "mistakes were made." John Aman further stated that "Politics may have played a role in it." Aman also said that any mistakes "need to be corrected." John Aman promised he would keep Gord Vickers "in the loop." To date, Gord Vickers has not heard back from John Aman or anyone else from Unifor National.

79. On July 16, 2023 Gord Vickers sent two additional emails to Lana Payne, cc to John Aman regarding aspects of the PWT-DRT issue. The emails were sent from Tim Thompson's email account. [Exhibits 25, 26]. John Aman responded to a point in Gord Vickers' second email. [Exhibit 27]

80. As of July 18, 2023 Tim Thompson had not heard back from John Aman, so he emailed him with a request to be updated. [Exhibit 28]

81. On July 19, 2023 John Aman replied to Tim Thompson. [Exhibit 29] John Aman's email stated:

"Hope you are keeping well. I have had a chance to review our meeting and speak to a number of folks on this matter. I have been informed 51 PWT members have applied for a position so at this stage we are waiting to see what they do and will deal with any issues that need to be dealt with at that time. From a legal Labour Relations standpoint that is our only option. Will keep you posted as soon as we hear any additional information."

82. This response from John Aman is completely inadequate. It does not address the issue of the seniority of the PWT operators. It does not adequately address the issue of the employment security of the PWT operators after December 31, 2023. It also completely fails to address the exclusion of the PWT members and their representatives from the negotiations and agreement that was negotiated.

83. On July 19, 2023 PWT management notified Unifor Local 222 that they had not received a response from the Union to their grievance (referenced in paragraph 53) and were referring the grievance to arbitration. [Exhibit 30]

84. On August 8, 2023 Tim Thompson received a copy of the Memorandum of Agreement (MOA) between Durham Region Transit Commission and Unifor Local

222 and PWTransit Canada Ltd. by email from Brandi Tracksell. [Exhibit 31] This document seems to be the full official agreement between the parties regarding the termination of the PWT contract to provide transit services to DRT and the opportunities for PWT employees to apply for employment with DRT. The terms of this MOA are consistent with the provisions outlined in the Attachment. The copy of the MOA received by Tim Thompson is signed by Jeff Gray, President and Ian Sinnott, DRT Unit Chair, and is dated May 25, 2023. All of the harmful consequences to PWT employees discussed in paragraphs 45 to 49 of this application are found in the MOA.

85. There is one additional provision of the MOA that is not mentioned in the Bulletin or the Attachment that is harmful to the rights of the PWT employees, and that demonstrates that Unifor failed in their duty of fair representation to the PWT employees.
86. MOA Paragraph 8: "In consideration of the anticipated offers of employment to eligible and qualified PWT employees, Unifor and PWT agree that there has no sale [sic] of business or assets from PWT to the Commission and therefore no party to this agreement shall file an application with the Ontario Labour Relations Board or Ministry of Labour declaring the Commission and PWT a related and/or successor employer pursuant to the *Labour Relations Act* or declaring a sale of business pursuant to the *Employment Standards Act*. Further, it is expressly understood that PWT and Unifor shall release, indemnify and hold harmless the Commission and its agents from any claim, liability or obligations arising from: 1) the termination or lay-off of any PWT employee who does not secure employment with the Commission, 2) PWT employees who do not accept an offer of employment from the Commission; and/or 3) employment with PWT."
87. There are a number of material facts that could result in a successful application to declare DRT and PWT a related and/or successor employer pursuant to the Labour Relations Act or declaring a sale of business pursuant to the Employment Standards Act. This is reinforced by the success of the Union in the case of National Automobile, Aerospace and Agricultural Implement Workers Union of Canada (CAW-Canada, Local 222) v. Charterways Transportation Limited, 1994 CanLII 9995 (ON LRB). There are many similarities between that case and the current situation, including the fact that it involved a municipality in Durham ending a contract to provide transit services in order to operate those services themselves.
88. An application for a declaration of related and/or successor employer, if successful, would likely provide substantial protection for the employment rights, seniority, and other benefits of the PWT employees. The decision by Unifor to agree to **not** file

such an application is an arbitrary and unreasonable abandonment of a course of action that could provide great benefit to the PWT employees.

89. Regional Municipality of Durham By-law 852004 would also support the claims of PWT operators to keep their jobs and maintain their seniority and service in an application for a declaration of related and/or successor employer. [Exhibit 32]
90. The decision by Unifor Local 222 to bind itself to not file an application for common and/or successor employer was made without consultation with, or even the knowledge of, the PWT employees or their Bargaining Committee representatives. This is an arbitrary and bad faith abandonment of the interests of the Local 222 members in the PWT Unit.
91. This decision was also made in consideration of an agreement that does not guarantee employment for any PWT employee, but only agrees that they will be **considered** for employment, and only if they are deemed eligible and qualified by DRT management.
92. Further, Unifor should not have agreed to “release, indemnify and hold harmless” DRT from any claim by a PWT employee who is not hired by DRT.
93. On September 15, 2023 an Application process document was emailed to PWT employees who had applied to work at DRT. [Exhibits 33, 34] The document includes the following statement:

****Please note that at this time we are only hiring for regular part-time positions.* Any future postings or competitions for full-time positions will be run in accordance with the collective agreement.***

Positions in Operations and Service are part-time in nature, please be aware that we are unable to guarantee the weekly number of hours of work for part time positions.

Note that regular part time positions are not eligible for paid vacation or sick days and do not receive benefits (however you will be paid a percentage in lieu of benefits on each pay). Part time employees have the option to participate in our OMERS pension plan. (Emphasis in the original).

94. As of October 23, 2023 at least five PWT workers have received emails from DRT notifying them that they would not be offered employment by DRT because they were “unsuccessful overall in the process and didn’t meet the minimum required to proceed with an offer.” These five workers, and any others rejected by DRT, will

lose their jobs on or before December 31, 2023 and suffer substantial financial losses. [Exhibit 35]

95. As of the date of this application, no further information, assistance or help has been provided to Tim Thompson, the other members of the PWT unit bargaining committee, or any PWT unit members by anyone from Unifor Local 222 or Unifor National.